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Attorney for Defendant
UNITED PARCEL SERVICE, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NICHOLAS STEPHENS

Plaintiff,

v.

UNITED PARCEL SERVICE, INC.;

Defendant.

Case No.: 3:23-cv-06081-DMR

**DEFENDANT UNITED PARCEL
SERVICE INC.'S REPLY TO
PLAINTIFF'S RESPONSE TO
DISMISS SECOND AMENDED
COMPLAINT; NOTICE OF
WITHDRAWAL**

Hearing Date: July 18, 2024
Hearing Time: 10:00 a.m.
Judge: Hon. Jacqueline Scott Corley
Dept: 8
Complaint Filed: October 16, 2023
Trial Date: Not Yet Set

Defendant United Parcel Service, Inc., ("UPS") through its undersigned counsel, hereby submits its reply in response to Plaintiff's Response to Dismiss Second Amended Complaint with Attached Corrected Complaint and Exhibits ("Response"). (See Dkt. No. 35.) On May 29, 2024, UPS filed its Motion to Dismiss Plaintiff's Second Amended Complaint ("Motion to Dismiss"). (See Dkt. No. 33.) On June 7, 2024, Plaintiff filed the Response, which did not substantively respond to the Motion to Dismiss. (See Dkt. No. 35.) Instead Plaintiff filed a "Corrected Amended Complaint" on June 7, 2024. (See Dkt. No. 36.)

1 In light of Plaintiff's June 7, 2024 filings (Dkt. Nos. 35 & 36), UPS believes the
2 Motion to Dismiss is now moot and, on those grounds, UPS withdraws the Motion to
3 Dismiss pursuant to Civil Local Rule 7-7. If, for any reason, this Court does not accept
4 Plaintiff's "Corrected Amended Complaint", UPS requests this Court maintain the July
5 18, 2024 hearing date.

6 Respectfully submitted,

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8 Dated: June 18, 2024

DINSMORE & SHOHL LLP

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10 By: /s/ Robert D. Prine
11 ROBERT D. PRINE
12 Attorney for Defendant,
13 UNITED PARCEL SERVICE, INC.
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on June 18, 2024, a true copy of this document was served by electronic mail upon all registered CM/ECF users, and by United States Postal Service upon all non-registered CM/ECF users in this case as indicated below:

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I declared under penalty of perjury under the laws of the United States of America that the above is true and correct.

/s/ Robert D. Prine

Robert D. Prine